

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

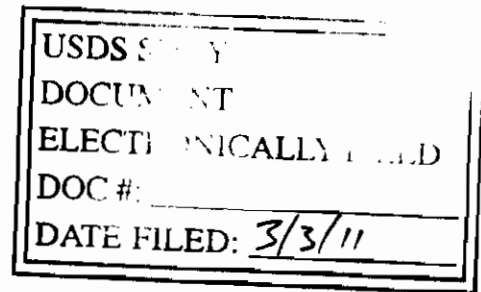
ABDUL-MALIK MUHAMMAD

Plaintiff,

-v-

NEW YORK DEPARTMENT OF CORRECTIONS,
et al.

Defendants.



No. 10 Civ. 1707 (RJS) (RLE)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Pro se Plaintiff Abdul-Malik Muhammad filed his Complaint on March 3, 2010, bringing claims pursuant to 42 U.S.C. § 1983 against Defendants Jean Richards, M.D., Deputy Warden Raino Hill, and other named Defendants who have not yet been served.¹ Plaintiff alleges that while he was detained at Rikers Island Correctional Facility, Defendants refused to follow a hemorrhoid treatment plan recommended by an outside doctor, causing Plaintiff excruciating pain. Plaintiff contends that Defendants' deliberate indifference to his medical condition constitutes cruel and unusual punishment in violation of the Fourteenth Amendment.

By Order dated March 30, 2010, this matter was referred to the Honorable Ronald L. Ellis, Magistrate Judge, for general pre-trial purposes and dispositive motions requiring a report and recommendation. On July 15, 2010, Defendants Richards and Hill filed a motion to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Judge Ellis

¹ Specifically, Plaintiff has not served the New York Department of Corrections, the New York City Department of Health and Hospital Services, and "Captain Paterson."

granted Plaintiff's request for an extension of time to serve his opposition and set forth a September 24, 2010 deadline for the response. Plaintiff did not submit any opposition.

On February 3, 2011, Judge Ellis issued a Report and Recommendation (the "Report"), recommending that Defendants' motion to dismiss the claims against Richards and Hill be granted. Judge Ellis noted that the parties shall have fourteen days from the date of the Report to file written objections and that the failure to file timely objections would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Ellis's Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report in its entirety, and for the reasons set forth therein, dismisses the Complaint as to Defendants Richards and Hill.

SO ORDERED.

Dated: March 3, 2011
New York, New York



RICHARD L. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Abdul-Malik Muhammad
09A5184
Cape Vincent Correctional Facility
Rt. 12E, P.O. Box 739
Cape Vincent, New York 13618